

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

DOUGLAS J. WILTSE,)	
)	
Plaintiff,)	Case No. 07 CV 7073
)	
v.)	Judge Manning
)	
DISCOVER FINANCIAL SERVICES, INC.,)	Magistrate Judge Keys
a Delaware Corporation,)	
)	
Defendant.)	

MOTION TO COMPEL PLAINTIFF’S DISCLOSURES UNDER RULE 26(a)(1)

Defendant, DFS Services LLC (“DFS”), formerly known as Discover Financial Services, Inc., by and through its attorneys, hereby moves to compel Plaintiff Douglas J. Wiltse (“Plaintiff”) to serve his initial Rule 26(a)(1) disclosures. In support of this motion, Defendant states as follows:

1. On July 25, 2008, the parties appeared before Magistrate Judge Keys for a status hearing. At that time, Magistrate Judge Keys ordered the parties to exchange Rule 26(a)(1) disclosures by August 1, 2008. Magistrate Judge Keys reiterated this deadline in a minute order entered the same day. *See* Docket Entry 38.
2. DFS has served its disclosures.
3. As of the filing of this Motion, Plaintiff has failed to serve his Rule 26(a)(1) disclosures.
4. Counsel for DFS has made two good faith attempts to confer with Plaintiff’s counsel in order to obtain the disclosures without court action as required by Federal Rule of Civil Procedure 37(a)(1) and Local Rule 37.2.

(a) On August 6, 2008, Ms. Tama Oblander, counsel for DFS, sent a letter to Mr. Minuskin, counsel for Plaintiff, stating that DFS had not yet received Plaintiff's disclosures and inquiring as to when such disclosures would be served. Ms. Tama Oblander sent her letter by electronic mail as well as U.S. mail. *See* Exhibit A attached hereto. No response was received from Plaintiff's counsel.

(b) On August 13 at 5:10 p.m., Ms. Grumet-Morris, counsel for DFS, called Mr. Minuskin but the call was not answered. Ms. Grumet-Morris left a message on Mr. Minuskin's voice messaging system, again advising that DFS had not yet received Plaintiff's disclosures, asking when the same could be expected, and inviting Mr. Minuskin to call either Ms. Grumet-Morris or Ms. Tama Oblander to discuss. Mr. Minuskin returned this call on August 15, 2008 at approximately 1:00 p.m. and left a message for Ms. Grumet-Morris. In his message, Mr. Minuskin acknowledged receipt of both Ms. Tama Oblander's letter and Ms. Grumet-Morris's voice message and advised that he would serve Plaintiff's disclosures Monday, August 18, 2008.

5. On August 19, 2008, counsel for DFS sent Plaintiff's counsel a copy of this Motion and advised him that if the disclosures were not received by August 20, DFS would have to seek the Court's intervention.

6. Given that the close of discovery is September 30, 2008, Plaintiff's delay in serving his Rule 26(a)(1) disclosures by the August 1 deadline set by the Court is significant and has affected DFS's ability to defend the case and proceed with its own discovery in a timely and efficient manner.

WHEREFORE, Defendant, DFS Services LLC, respectfully requests that the Court enter an order compelling Plaintiff to serve his Rule 26(a)(1) disclosures immediately and for other such relief as the court deems appropriate.

DFS SERVICES LLC

By: /s/ Cheryl Tama Oblander
One of Its Attorneys

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CERTIFICATE OF SERVICE

The undersigned, one of the attorneys for Defendant DFS Services LLC, hereby certifies that on August 20, 2008, a true and correct copy of the foregoing MOTION TO COMPEL PLAINTIFF'S DISCLOSURES UNDER RULE 26(a)(1) was filed electronically with the Court. Notice of this filing will be sent to the following parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

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By: /s/ Cheryl Tama Oblander
One of Its Attorneys